

Title 17-A: MAINE CRIMINAL CODE
Chapter 51: SENTENCES OF IMPRISONMENT

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Maine Revised Statutes
Title 17-A: MAINE CRIMINAL CODE
Chapter 51: SENTENCES OF IMPRISONMENT

§1251. IMPRISONMENT FOR MURDER

A person convicted of the crime of murder shall be sentenced to imprisonment for life or for any term of years that is not less than 25. The sentence of the court shall specify the length of the sentence to be served and shall commit the person to the Department of Corrections. [1983, c. 673, §3 (RPR).]

In setting the length of imprisonment, if the victim is a child who had not in fact attained the age of 6 years at the time the crime was committed or if the victim is a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact in determining the final sentence in the 2nd and final step in the sentencing process. Nothing in this paragraph may be construed to restrict a court in setting the length of imprisonment from considering the age of the victim in other circumstances when relevant. [2005, c. 88, Pt. B, §1 (AMD).]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§114,115 (AMD). 1977, c. 510, §74 (RPR). 1983, c. 581, §3 (RPR). 1983, c. 673, §3 (RPR). 1999, c. 536, §1 (AMD). 2005, c. 88, §B1 (AMD).

§1252. IMPRISONMENT FOR CRIMES OTHER THAN MURDER

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.

A. For a Class D or Class E crime the court must specify a county jail as the place of imprisonment. [1989, c. 693, §5 (NEW).]

B. For a Class A, Class B or Class C crime the court must:

(1) Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or

(2) Commit the person to the Department of Corrections if the term of imprisonment is more than 9 months. [1989, c. 693, §5 (NEW).]

C. [1995, c. 425, §2 (RP).]

[1995, c. 425, §2 (AMD) .]

2. The court shall set the term of imprisonment as follows:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 30 years; [2003 , c. 657, §10 (AMD) .]

B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years; [1975 , c. 499, §1 (NEW) .]

C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years; [1975 , c. 499 , §1 (NEW) .]

D. In the case of a Class D crime, the court shall set a definite period of less than one year; or [1975 , c. 499 , §1 (NEW) .]

E. In the case of a Class E crime, the court shall set a definite period not to exceed 6 months. [1975 , c. 499 , §1 (NEW) .]

[2003 , c. 657 , §10 (AMD) .]

2-A.

[1977 , c. 510 , §76 (RP) .]

3. The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.

[1983 , c. 816 , Pt. A , §6 (AMD) .]

3-A. At the request of or with the consent of a convicted person, a sentence of imprisonment under this chapter in a county jail or a sentence of probation involving imprisonment in a county jail under chapter 49 may be ordered to be served intermittently.

[1977 , c. 196 , (NEW) .]

4. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

[2005 , c. 527 , §17 (AMD) .]

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

[2007 , c. 476 , §45 (AMD) .]

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken. [2007, c. 476, §46 (AMD) .]

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or another jurisdiction. [2007, c. 476, §46 (AMD) .]

[2007, c. 476, §46 (AMD) .]

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

[2003, c. 711, Pt. B, §20 (NEW) .]

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

[2005, c. 673, §3 (RPR) .]

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

[2005, c. 673, §4 (NEW) .]

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class for the crime is Class A, the minimum term of imprisonment is 4 years; when the sentencing class for the crime is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class for the crime is Class C, the minimum term of imprisonment is one year. For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

[1995, c. 28, §1 (AMD) .]

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C or 1105-D:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year; [2001, c. 383, §151 (AMD); 2001, c. 383, §156 (AFF) .]

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

(2) The court finds that:

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and [2013, c. 133, §15 (AMD) .]

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months. [2001, c. 383, §151 (AMD); 2001, c. 383, §156 (AFF) .]

[2013, c. 133, §15 (AMD) .]

5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant.

[1999, c. 536, §2 (NEW) .]

5-C. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the

crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

[2005, c. 88, Pt. B, §2 (NEW) .]

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

[2007, c. 685, §2 (NEW) .]

6.

[1989, c. 693, §6 (RP) .]

7. If a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.

[1989, c. 693, §7 (NEW) .]

8.

[1991, c. 622, Pt. N, §3 (NEW); T. 17-A, §1252, sub-§8 (RP) .]

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

[2005, c. 527, §20 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§116-118, 118A (AMD). 1977, c. 176, (AMD). 1977, c. 196, (AMD). 1977, c. 217, (AMD). 1977, c. 510, §§75-78 (AMD). 1979, c. 701, §30 (AMD). 1983, c. 581, §4 (AMD). 1983, c. 673, §4 (AMD). 1983, c. 816, §A6 (AMD). 1985, c. 821, §§7-10 (AMD). 1987, c. 535, §7 (AMD). 1987, c. 808, §§1, 3 (AMD). 1989, c. 693, §§5-7 (AMD). 1989, c. 925, §11 (AMD). 1991, c. 622, §N3 (NEW). 1995, c. 28, §1 (AMD). 1995, c. 425, §2 (AMD). 1995, c. 473, §1 (AMD). 1997, c. 460, §5 (AMD). 1999, c. 374, §6 (AMD). 1999, c. 536, §2 (AMD). 1999, c. 788, §8 (AMD). 2001, c. 383, §§150, 151 (AMD). 2001, c. 383, §156 (AFF). 2001, c. 439, §0004 (AMD). 2001, c. 667, §A39 (AMD). 2001, c. 667, §A40 (AFF). 2003, c. 1, §10 (AMD). 2003, c. 143, §9 (AMD). 2003, c. 232, §1 (AMD). 2003, c. 475, §1 (AMD). 2003, c. 657, §10 (AMD).

2003, c. 688, §A14 (AMD). 2003, c. 711, §§B19,20 (AMD). 2005, c. 88, §B2 (AMD). 2005, c. 447, §1 (AMD). 2005, c. 527, §§17-20 (AMD). 2005, c. 673, §§3, 4 (AMD). 2007, c. 476, §§45, 46 (AMD). 2007, c. 685, §2 (AMD). 2013, c. 133, §15 (AMD).

§1252-A. DEDUCTIONS

Unless otherwise specifically provided by law, deductions for good time and meritorious good time shall be calculated in accordance with the laws in effect on the date the offense was committed. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed for the same offense, calculation of good time and meritorious good time shall be in accordance with the laws which governed this calculation on the sentence previously imposed. [1987, c. 361, §5 (NEW).]

SECTION HISTORY

1987, c. 361, §5 (NEW).

§1252-B. IMPOSITION OF SENTENCE; CONSIDERATION OF GOOD TIME AND MERITORIOUS GOOD TIME AT THE TIME OF SENTENCING

(REPEALED)

SECTION HISTORY

1987, c. 808, §2 (NEW). 1995, c. 433, §1 (RPR). 2003, c. 143, §14 (AFF). 2003, c. 143, §10 (RP).

§1252-C. SENTENCING PROCEDURE RELATING TO THE IMPOSITION OF IMPRISONMENT

In imposing a sentencing alternative pursuant to section 1152 that includes a term of imprisonment relative to murder, a Class A, Class B or Class C crime, in setting the appropriate length of that term as well as any unsuspended portion of that term accompanied by a period of probation, the court shall employ the following 3-step process: [1995, c. 69, §1 (NEW).]

1. The court shall first determine a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the offender.

[1995, c. 69, §1 (NEW) .]

2. The court shall next determine the maximum period of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to that case. These sentencing factors include, but are not limited to, the character of the offender and the offender's criminal history, the effect of the offense on the victim and the protection of the public interest.

[1995, c. 69, §1 (NEW) .]

3. The court shall finally determine what portion, if any, of the maximum period of imprisonment should be suspended and, if a suspension order is to be entered, determine the appropriate period of probation to accompany that suspension.

[1995, c. 69, §1 (NEW) .]

SECTION HISTORY

1995, c. 69, §1 (NEW).

§1253. CALCULATION OF PERIOD OF IMPRISONMENT

1. The sentence of any person committed to the custody of the Department of Corrections shall commence to run on the date on which that person is received into the correctional facility designated as the initial place of confinement by the Commissioner of Corrections pursuant to section 1258. That day is counted as the first full day of the sentence.

The sentence of any person committed to the custody of a sheriff shall commence to run on the date on which that person is received into the county jail specified in the sentence. That day is counted as the first full day of the sentence if the term of imprisonment, or the initial unsuspended portion of a split sentence, is over 30 days; otherwise, credit is accorded only for the portion of that day for which the person is actually in execution of the sentence.

[1985, c. 821, §11 (RPR) .]

1-A. When a person is sentenced to a concurrent sentence as authorized by section 1256, subsection 7, the provisions of this section shall apply and shall be administered by the supervisory officer of this State's institution when the person is committed to the custody of the department, or by the sheriff of this State's county jail when the person is committed to the custody of the sheriff. If the person is released from imprisonment under the sentence of the other jurisdiction prior to the termination of this State's sentence, the remainder of this State's sentence shall be served at the appropriate state institution or county jail.

[1985, c. 282, §6 (RPR) .]

2. Each person sentenced to imprisonment who has previously been detained for the conduct for which the sentence is imposed in any state facility or county institution or facility or in any local lockup awaiting trial, during trial, post-trial awaiting sentencing or post-sentencing prior to the date on which the sentence commenced to run either to await transportation to the place of imprisonment specified, or pursuant to court order, and not in execution of any other sentence of confinement, is entitled to receive a day-for-day deduction from the total term of imprisonment required under that sentence. Each person is entitled to receive the same deduction for any such period of detention in any federal, state or county institution, local lockup or similar facility in another jurisdiction, including any detention resulting from being a fugitive from justice, as defined by Title 15, section 201, subsection 4, unless the person has simultaneously been detained for non-Maine conduct. A person who has been simultaneously detained for conduct for which the person is sentenced to a consecutive sentence is not entitled to receive a day-for-day deduction from the consecutive sentence for the period of simultaneous detention except for any period of detention that is longer than the total term of imprisonment required under the prior sentence.

For the purpose of calculating the day-for-day deduction specified by this subsection, a "day" means 24 hours, except that for a person who commits a crime on or after October 15, 2011, who has previously been detained for the conduct for which the person is sentenced to a term of imprisonment of 96 hours or less, for the purposes of calculating the day-for-day deduction specified in this subsection, any portion of a day detained short of 24 hours will also be deducted from the total term of imprisonment required under that sentence.

The total term required under the sentence of imprisonment is reduced by the total deduction of this subsection prior to applying any of the other deductions specified in this section or in Title 30-A, section 1606.

The sheriff or other person upon whom the legal duty is imposed to deliver a sentenced person who has been detained as specified in this subsection shall, within 30 days of delivery, furnish to the custodian a statement showing the length of that detention. In addition, the transporter shall furnish to the attorney for the State the same statement. The custodian shall use the statement furnished to determine the day-for-day deduction to which the person is entitled, if any, unless, within 15 days of its receipt, the attorney for the State furnishes a revised statement to the custodian.

A. For any person who commits a crime on or after August 1, 2004, is subsequently sentenced to a term of imprisonment for that crime and is entitled to receive a day-for-day deduction pursuant to this subsection, up to 2 additional days per calendar month may be credited to that deduction if the person's conduct during that period of detention was such that the credit is determined to be warranted in the discretion of the chief administrative officer of the facility in which the person has previously been detained.

Credits under this paragraph must be calculated as follows for partial calendar months:

Days of partial month	Maximum credit available
1 to 15 days	up to 1
16 to 31 days	up to 2

The sheriff or other person required to furnish a statement showing the length of detention shall also furnish a statement showing the number of days credited pursuant to this paragraph.

Detention awaiting trial, during trial, post-trial awaiting sentencing or post-sentencing prior to the date on which a sentence commences to run is not punishment. [2003, c. 711, Pt. A, §15 (NEW) .]

[2011, c. 464, §21 (AMD) .]

2-A. For the purpose of calculating the term of imprisonment, when used by a sentencing court, the words "day," "week," "month" and "year" have the following meanings.

A. A "day" means 24 hours. [1985, c. 285, §2 (NEW) .]

B. A "week" means 7 days. [1985, c. 285, §2 (NEW) .]

C. A "month" means 30 days. [1985, c. 285, §2 (NEW) .]

D. A "year" means 365 days. [1985, c. 285, §2 (NEW) .]

[1985, c. 285, §2 (RPR) .]

3. Beginning October 1, 1983, a person sentenced to imprisonment for more than 6 months is entitled to receive a deduction of 10 days each month for observing all rules of the department and institution. The period from which the deduction is made must be calculated from the first day the person is delivered into the custody of the department and includes the full length of the unsuspended portion of the sentence. This provision does not apply to the suspended portion of the person's sentence pursuant to section 1203. For the purpose of calculating good time under this subsection, a month is 30 days and a year is 12 months.

A. Deductions under this subsection must be calculated as follows for partial months.

Days of partial month	Maximum good time credit available
0 - 2 days	0
3 - 5 days	1
6 - 8 days	2
9 - 11 days	3
12 - 14 days	4
15 - 17 days	5
18 - 20 days	6
21 - 23 days	7
24 - 26 days	8
27 - 29 days	9
30 days	10

[1989, c. 693, §8 (NEW) .]

[2013, c. 133, §16 (AMD) .]

3-A.

[1983, c. 456, §4 (RP) .]

3-B. Beginning October 1, 1983, each person sentenced to imprisonment for 6 months or less is entitled to receive a deduction of 3 days per month calculated from the first day of that person's delivery into the custody of the department, to include the full length of the unsuspended portion of that person's sentence, for observing all the rules of the department and institution, except this provision does not apply to the suspended portion of a person's sentence pursuant to split sentences under section 1203. For the purpose of calculating good time under this subsection, a month is 30 days and a year is 12 months.

A. Deductions under this subsection must be calculated as follows for partial months.

Days of partial month	Maximum good time credit available
0 - 7 days	0
8 - 15 days	1
16 - 23 days	2
24 - 30 days	3

[1989, c. 693, §9 (NEW) .]

[1993, c. 518, §2 (AMD) .]

4. Up to an additional 3 days per month may be deducted in the case of those inmates committed to the Department of Corrections who are assigned or participating in work, education or other responsibilities within the institution or program that are determined to be of sufficient importance to warrant those deductions by the institution head in accordance with policy and guidelines established by the Department of Corrections. For the purpose of calculating meritorious good time under this subsection, a month is a calendar month.

A. Deductions made under this subsection must be calculated as follows for partial months.

Days of partial month	Maximum meritorious good time credit available
1 - 10 days	up to 1
11 - 20 days	up to 2
21 - 31 days	up to 3

[1993, c. 518, §3 (NEW) .]

[1993, c. 518, §3 (AMD) .]

5. In addition to the provisions contained in subsection 4, up to 2 days per month may also be deducted in the case of those inmates assigned to and participating in minimum security or community programs administered by the Department of Corrections. These deductions may also apply in the case of those inmates assigned to or participating in minimum security or community programs through agencies providing services to the Department of Corrections. These deductions may be authorized for work and responsibilities, to include public restitution, that are considered to be of sufficient importance to warrant those deductions by the institution head in accordance with the Department of Corrections policy and guidelines. For the purpose of calculating meritorious good time under this subsection, a month is a calendar month.

A. Deductions made under this subsection must be calculated as follows for partial months.

Days of partial month	Maximum meritorious good time credit available
1 - 15 days	up to 1
16 - 31 days	up to 2

[1993, c. 518, §4 (NEW) .]

[1993, c. 518, §4 (AMD) .]

6. Any portion of the time deducted from the sentence of any person pursuant to subsection 3 or 3-B may be withdrawn by the supervising officer of the institution for the infraction of any rule of the institution, for any misconduct or for the violation of any law of the State. The withdrawal of deductions may be made at the discretion of the institution head, in accordance with policies and guidelines established by the Department of Corrections, who may restore any portion thereof if the person's later conduct and outstanding effort warrant that restoration.

[1983, c. 456, §8 (NEW) .]

6-A. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the person for the same offense, day-for-day credit must be accorded on the new sentence both for each day the person served in execution of the initial sentence and for all previously earned deductions specified in subsections 4, 5, 8, 9 and 10 and Title 30-A, section 1606. Prior to the day-for-day credit being given on the new sentence, the new sentence must, after first having been reduced by any deductions specified in subsection 2 previously or subsequently received, have applied to it the controlling deduction specified in either subsection 3 or 3-B, if applicable.

[2003, c. 711, Pt. A, §16 (AMD) .]

7. Notwithstanding the fact that subsections 3, 3-B and 4 directly address only persons who are committed to the custody of the Department of Corrections, they apply also to persons who are committed to the custody of a sheriff. Subsection 5 and subsection 10, paragraph B do not apply to persons who are committed to the custody of a sheriff.

[2003, c. 711, Pt. A, §17 (AMD) .]

8. For any person who commits a crime on or after October 1, 1995 and is subsequently sentenced to a term of imprisonment for that crime, up to 5 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, whose conduct, participation in programs and fulfillment of assigned responsibilities during that month are such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail.

A. Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 6 days	up to 1
7 to 12 days	up to 2
13 to 18 days	up to 3
19 to 24 days	up to 4
25 to 31 days	up to 5

[1995, c. 433, §4 (NEW) .]

B. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence. [1995, c. 433, §4 (NEW) .]

C. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn if the person's later conduct, participation in programs and fulfillment of assigned responsibilities are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or sheriff. [1995, c. 433, §4 (NEW) .]

D. This subsection supersedes subsections 3, 3-B, 4, 5 and 6 for persons who commit offenses on or after October 1, 1995. [1995, c. 433, §4 (NEW).]

[1995, c. 433, §4 (NEW) .]

9. Time may be deducted from a term of imprisonment as a result of conduct in accordance with this subsection.

A. For a person who commits a crime, except for a crime set forth in subparagraphs (1) to (6), on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime, up to 4 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's conduct during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail. Deductions under this paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;
- (4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);
- (5) A crime under chapter 12; or
- (6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 7 days	up to 1
8 to 15 days	up to 2
16 to 23 days	up to 3
24 to 31 days	up to 4

[2003, c. 711, Pt. A, §18 (NEW).]

B. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence. [2003, c. 711, Pt. A, §18 (NEW).]

C. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn under paragraph B if the person's later conduct is such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the sheriff. [2003, c. 711, Pt. A, §18 (NEW).]

[2003, c. 711, Pt. A, §18 (NEW) .]

10. Time may be deducted from a term of imprisonment as a result of fulfillment of assigned responsibilities in accordance with this subsection.

A. In addition to the days of deduction provided for in subsection 9, paragraph A, for any person who commits a crime, except for a crime set forth in subparagraphs (1) to (6) on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime, up to 3 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs during that month is such that the deduction is determined

to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail. Deductions under this paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;
- (4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);
- (5) A crime under chapter 12; or
- (6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 10 days	up to 1
11 to 20 days	up to 2
21 to 31 days	up to 3

[2003, c. 711, Pt. A, §18 (NEW).]

B. In addition to the days of deduction provided for in paragraph A, for any person who commits a crime, except for a crime set forth in subparagraphs (1) to (6), on or after August 1, 2004 and is subsequently sentenced to a term of imprisonment for that crime to a state facility, up to 2 days per calendar month may also be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's fulfillment of responsibilities assigned in the person's transition plan for community work, education or rehabilitation programs during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility. Deductions under this paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;
- (4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);
- (5) A crime under chapter 12; or
- (6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 15 days	up to 1
16 to 31 days	up to 2

[2003, c. 711, Pt. A, §18 (NEW).]

C. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence. [2003, c. 711, Pt. A, §18 (NEW).]

D. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn under paragraph C if the person's later conduct and fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the sheriff. [2003, c. 711, Pt. A, §18 (NEW).]

[2003, c. 711, Pt. A, §18 (NEW) .]

11. As used in this section, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.

[2003, c. 711, Pt. A, §18 (NEW) .]

12. Subsections 9 and 10 supersede subsections 3, 3-B, 4, 5, 6 and 8 for a person who commits a crime other than murder and for a person who commits a crime other than under chapter 11 or 12; under section 556; under section 854, excluding subsection 1, paragraph A, subparagraph (1); or against a family or household member under chapter 9 or 13, section 506-B, 554, 555 or 758, on or after August 1, 2004.

[2005, c. 207, §4 (AMD) .]

13. If a court imposes a sentencing alternative pursuant to section 1152 that includes a term of imprisonment, in setting the appropriate length of that term, as well as an unsuspended portion of that term, if any, the court may not consider the potential impact of deductions under subsections 2, 3, 3-B, 4, 5, 8, 9 and 10 except in the context of a plea agreement in which both parties are recommending to the court a particular disposition under the Maine Rules of Criminal Procedure, Rule 11-A.

[2003, c. 711, Pt. A, §18 (NEW) .]

14. The Commissioner of Corrections or the sheriff of the county jail may establish policy and guidelines for crediting hours of participation in work in excess of 8 hours in a day toward another day for the purpose of calculating deductions from a sentence under subsections 4, 5, 8 and 10.

[2007, c. 102, §5 (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1977, c. 510, §§79-81 (AMD). 1977, c. 671, §§30-33 (AMD). 1979, c. 701, §31 (AMD). 1981, c. 317, §§25,26 (AMD). 1981, c. 470, §§B7,7-A (AMD). 1983, c. 450, §10 (AMD). 1983, c. 456, §§1-8 (AMD). 1985, c. 282, §6 (AMD). 1985, c. 285, §§1-3 (AMD). 1985, c. 456, §§1,2 (AMD). 1985, c. 821, §§11,12 (AMD). 1987, c. 737, §§C30,C31, C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 113, §3 (AMD). 1989, c. 693, §§8,9 (AMD). 1991, c. 259, §§1,2 (AMD). 1991, c. 364, §1 (AMD). 1991, c. 737, §1 (AMD). 1993, c. 518, §§1-4 (AMD). 1995, c. 433, §§2-4 (AMD). 1997, c. 464, §4 (AMD). 2003, c. 205, §6 (AMD). 2003, c. 706, §A6 (AMD). 2003, c. 711, §§A15-18 (AMD). 2005, c. 207, §4 (AMD). 2005, c. 507, §16 (AMD). 2007, c. 102, §5 (AMD). 2011, c. 464, §21 (AMD). 2013, c. 133, §16 (AMD).

§1254. RELEASE FROM IMPRISONMENT

1. An imprisoned person shall be unconditionally released and discharged upon the expiration of his sentence, minus the deductions authorized under section 1253, except that, as to a person committed to the custody of the Department of Corrections, if the computation of that person's sentence fixes his release and discharge date on a Saturday, Sunday or legal holiday, that person may be released and discharged on the last regular business day of the correctional facility preceding that Saturday, Sunday or legal holiday.

[1985, c. 821, §13 (AMD) .]

2.

[1977, c. 510, §82 (RP) .]

2-A. If the length of the unsuspended portion of a prisoner's term of imprisonment is 8 days or more, a prisoner sentenced to a county jail may be released at any time on the final day of imprisonment, in accordance with jail release procedures; otherwise, the prisoner shall not be released until the prisoner has served the full term of hours or days imposed by the court.

[1989, c. 215, (NEW) .]

3. All persons in the custody of the Department of Corrections pursuant to a sentence imposed under the law in effect prior to the effective date of this code shall be released and discharged according to the law as it was in force prior to the effective date of this code and such law shall continue in force for this purpose as if this code were not enacted.

[1985, c. 456, §3 (AMD) .]

4. Any prisoner convicted of an offense committed prior to the effective date of this code and sentenced under the law then in effect may elect to have his parole eligibility calculated using the good-time and meritorious good-time deductions available to prisoners sentenced under this code. The election shall result in the application in its entirety of the most favorable good-time and meritorious good-time law during the effective dates of each such law to the parole eligibility determination of the electing prisoner. The parole eligibility and good-time and meritorious good-time deductions of a prisoner who does not so elect shall be calculated in accordance with the laws in effect on the date the offense was committed. Nothing in this section may be construed to compel or permit discharge of any prisoner sooner than the discharge would have occurred under the law in effect on the date the offense was committed.

[1987, c. 61, (NEW) .]

SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§119,120 (AMD). 1977, c. 510, §82 (AMD). 1981, c. 493, §3 (AMD). 1985, c. 456, §3 (AMD). 1985, c. 821, §13 (AMD). 1987, c. 61, (AMD). 1989, c. 215, (AMD).

§1255. SENTENCES IN EXCESS OF ONE YEAR DEEMED TENTATIVE (REPEALED)

SECTION HISTORY

1981, c. 324, §33 (NEW). 1983, c. 714, (RP).

§1256. MULTIPLE SENTENCES OF IMPRISONMENT

1. Other provisions of this section notwithstanding, when a person subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment or of an attempt to commit a crime while in execution of any term of imprisonment, the sentence is not concurrent with any undischarged term of imprisonment. The court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately and the court shall so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. All sentences that the convicted person receives as a result of the crimes mentioned in this subsection must be nonconcurrent with all other sentences.

[2005, c. 329, §4 (AMD) .]

1-A. Subsection 1 applies to prisoners on supervised community confinement pursuant to Title 34-A, section 3036-A.

[2013, c. 133, §17 (AMD) .]

2. In all other cases, the court shall state in the sentence of imprisonment whether a sentence shall be served concurrently with or consecutively to any other sentence previously imposed or to another sentence imposed on the same date. The sentences shall be concurrent unless, in considering the following factors, the court decides to impose sentences consecutively:

A. That the convictions are for offenses based on different conduct or arising from different criminal episodes; [1981, c. 324, §34 (NEW) .]

B. That the defendant was under a previously imposed suspended or unsuspended sentence and was on probation, under incarceration or on a release program at the time the person committed a subsequent offense; [1983, c. 408, §4 (AMD) .]

C. That the defendant had been released on bail when that person committed a subsequent offense, either pending trial of a previously committed offense or pending the appeal of previous conviction; or [1983, c. 408, §4 (AMD) .]

D. That the seriousness of the criminal conduct involved in either a single criminal episode or in multiple criminal episodes or the seriousness of the criminal record of the convicted person, or both, require a sentence of imprisonment in excess of the maximum available for the most serious offense. [1981, c. 324, §34 (NEW) .]

[1983, c. 408, §4 (AMD) .]

3. A defendant may not be sentenced to consecutive terms for crimes arising out of the same criminal episode when:

A. One crime is an included crime of the other; [1981, c. 324, §34 (NEW) .]

B. One crime consists only of a conspiracy, attempt, solicitation or other form of preparation to commit, or facilitation of, the other; [1981, c. 324, §34 (NEW) .]

C. The crimes differ only in that one is defined to prohibit a designated kind of conduct generally, and the other to prohibit a specific instance of that conduct; or [1981, c. 324, §34 (NEW) .]

D. Inconsistent findings of fact are required to establish the commission of the crimes. [1981, c. 324, §34 (NEW) .]

[1981, c. 324, §34 (NEW) .]

4. If the court decides to impose consecutive sentences, it shall state its reasons for doing so on the record or in the sentences.

[1981, c. 324, §34 (NEW) .]

5. If a person has been placed on probation pursuant to a previously imposed sentence and the court determines that the previously imposed sentence and a new sentence shall be served consecutively, the court shall revoke probation pursuant to section 1206, subsections 7 and 7-A. The court may order that the sentence which had been suspended to be served at the same institution as that which is specified by the new sentence.

[1981, c. 324, §34 (NEW) .]

6. If it is discovered subsequent to the imposition of a sentence of imprisonment that the sentencing court was unaware of a previously imposed sentence of imprisonment which is not fully discharged, the court shall resentence the defendant and shall specify whether the sentences are to be served concurrently or consecutively. The court shall not resentence the defendant if the sentences are consecutive as a matter of law.

[1987, c. 361, §6 (AMD) .]

7. When a person who has been previously sentenced in another jurisdiction has not commenced or completed that sentence, the court, subject to subsection 1, may, with consideration of the factors stated in subsection 2, sentence the person to a term of imprisonment which shall be treated as a concurrent sentence from the date of sentencing although the person is incarcerated in an institution of the other jurisdiction. No concurrent sentence pursuant to this subsection may be imposed unless the person being sentenced consents or unless the person being sentenced executes, at the time of sentencing, a written waiver of extradition for his return to this State, upon completion of the sentence of the other jurisdiction, if any portion of this State's sentence remains unserved. In the absence of an order pursuant to this subsection requiring concurrent sentences, any sentence of imprisonment in this State shall commence as provided in section 1253, subsection 1, and shall run consecutively to the sentence of the other jurisdiction.

[1985, c. 282, §7 (NEW) .]

8. No court may impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence, or to any sentence including supervised release under chapter 50, previously imposed or imposed on the same date, if the net result, even with the options made available by subsections 5 and 9 and section 1202, subsection 4, would be to have the person released from physical confinement to be on probation or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.

[1999, c. 788, §9 (AMD) .]

9. Any justice imposing a sentence of imprisonment to be served consecutively to any other previously imposed sentence that the person has not yet commenced, in order to comply with subsection 8, may rearrange the order in which the sentences are to be served. Any judge may also do so if that judge has jurisdiction over each of the sentences involved.

[1989, c. 739, §2 (NEW) .]

SECTION HISTORY

1981, c. 324, §34 (NEW). 1983, c. 408, §§3,4 (AMD). 1985, c. 282, §7 (AMD). 1985, c. 821, §14 (AMD). 1987, c. 361, §6 (AMD). 1989, c. 739, §2 (AMD). 1993, c. 522, §1 (AMD). 1999, c. 458, §1 (AMD). 1999, c. 788, §9 (AMD). 2005, c. 329, §4 (AMD). 2009, c. 142, §8 (AMD). 2013, c. 133, §17 (AMD).

§1257. VICTIM'S RIGHT TO PARTICIPATE IN SENTENCE

1. In any case where a defendant has been convicted of a crime either upon the defendant's plea or after trial, the attorney for the State has the right to be heard at the time of sentence. The attorney for the State may recommend a specific sentence or other disposition. The court shall consider any statements made by the attorney for the State, along with all other appropriate factors, in determining the sentence.

[1995, c. 680, §7 (AMD) .]

2. A victim has the right to participate in the sentencing process pursuant to section 1174 and to receive notification of a defendant's release pursuant to section 1175.

[1995, c. 680, §8 (RPR) .]

3. Notification of victim.

[1995, c. 680, §9 (RP) .]

SECTION HISTORY

1983, c. 352, §2 (NEW). 1983, c. 581, §5 (NEW). 1983, c. 673, §5 (RP).
1995, c. 680, §§7-9 (AMD).

§1257-A. NOTIFICATION OF PERPETRATOR'S RELEASE

(REPEALED)

SECTION HISTORY

1985, c. 266, §1 (NEW). 1989, c. 502, §D14 (AMD). 1995, c. 164, §1
(AMD). 1995, c. 680, §10 (RP).

§1258. NOTIFICATION OF COMMITMENTS TO THE DEPARTMENT OF CORRECTIONS

At the time of sentencing, the sheriff shall notify the Commissioner of Corrections or the commissioner's designee that a person has been committed to the Department of Corrections and shall inquire as to the correctional facility to which the sentenced person must be delivered by the sheriff or the sheriff's deputies. The commissioner or the commissioner's designee has complete discretion to determine the initial place of confinement. In making this determination, the commissioner or the commissioner's designee shall review all relevant information, including any available mental health information. The commissioner or the commissioner's designee shall immediately inform the sheriff of the location of the correctional facility to which the sentenced person must be transported. [2005, c. 488, §6 (AMD).]

SECTION HISTORY

1983, c. 673, §6 (NEW). 2001, c. 458, §1 (AMD). 2005, c. 488, §6 (AMD).

§1259. COMMITMENTS TO THE DEPARTMENT OF CORRECTIONS OF BOUND-OVER JUVENILES WHO HAVE NOT ATTAINED 18 YEARS OF AGE AT THE TIME OF SENTENCE IMPOSITION

A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4, for a juvenile crime for which the juvenile had the burden of proof with respect to the finding of appropriateness, who is subsequently, as to the juvenile crime's adult counterpart, convicted and sentenced to a sentence alternative involving imprisonment and who has not attained 18 years of age at the time of sentence imposition must be committed to a Department of Corrections juvenile correctional facility for an indeterminate period not to extend beyond the juvenile's 18th birthday to serve the term of imprisonment or any unsuspended

portion until discharge from the juvenile correctional facility and once discharged must be transferred to a correctional facility in which adult offenders are confined to serve out the remainder of the imprisonment term or unsuspended portion, if any. [2013, c. 28, §9 (AMD).]

SECTION HISTORY

2007, c. 686, §1 (NEW). 2013, c. 28, §9 (AMD).

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